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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/560,487	12/12/2005	Wolfgang Orgeldinger	SCHO0590	3136

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GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK, CA 94025

EXAMINER

CASTELLANO, STEPHEN J

ART UNIT	PAPER NUMBER
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3781

NOTIFICATION DATE	DELIVERY MODE
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01/21/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

eptomatters@glenn-law.com

Office Action Summary	Application No. 10/560,487	Applicant(s) ORGELDINGER, WOLFGANG	
	Examiner /Stephen J. Castellano/	Art Unit 3781	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 October 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-23 is/are pending in the application.
- 4a) Of the above claim(s) 18-23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>12-12-5, 11-8-7</u> . | 6) <input type="checkbox"/> Other: _____ |

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Claims 18-22 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on October 30, 2009.

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 17 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claim 17 lacks enablement. Claim 17 recites “the lateral walls of the crate each have an irregular lower edge below the crate bottom.” However, the lateral wall lower edge is planar rather than irregular as shown in Fig. 2 and this lower edge is above the crate bottom rather than below the crate bottom. The stacking capacity with irregular edges is shown in Fig. 2 as the lower bottom surface has irregular edges and the upper edge of the top has irregular edges.

This is a lack of enablement rejection.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 12, 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heymann et al. (4527707) (Heymann) in view of Sluiter (2002/0033392).

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Heymann discloses a transport container system comprising a crate and a unitary top, the crate has fasteners 20 for attaching the top. Heymann discloses the invention except for the natural material of the top being wood or cardboard. Sluiter teaches wood material in the top 5. It would have been obvious to modify the material composition of the top to be wood to lighten the weight of the top and to make the top from a degradable or reusable material to conserve resources.

Claims 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dutch reference No. (NL 9300986) in view of Sluiter (2002/0033392).

NL ('986) discloses a transport container system comprising a crate and a unitary top that has fold lines at its corners for collapsing into a compact configuration, the top has fasteners (tongues 5) for attaching to the crate. NL ('986) discloses the invention except for the natural material of the top being wood or cardboard. Sluiter teaches wood material in the top 5. It would have been obvious to modify the material composition of the top to be wood to lighten the weight of the top and to make the top from a degradable or reusable material to conserve resources.

Claims 12 and 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuhns (4460214) in view of Sluiter (2002/0033392).

Kuhns discloses a transport container system comprising a crate and a unitary top with corner stiffeners (sheet metal angle iron 46), the crate has fasteners (bolts 32) for attaching the top. Kuhns discloses the invention except for the natural material of the top being wood or cardboard. Sluiter teaches wood material in the top 5. It would have been obvious to modify the

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material composition of the top to be wood to lighten the weight of the top and to make the top from a degradable or reusable material to conserve resources.

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dutch reference No. (NL 9300986) in view of Sluiter (2002/0033392) as applied to claim 12 above, and further in view of Sterett (5361906).

The combination discloses the invention except for the irregular surfaces. Sterett teaches an irregular lower edge below the crate bottom and irregular edges on the lateral walls of the top capable of being received in mating engagement with the irregular lower edges of the crate. It would have been obvious to modify the edges in order to provide mating engagement and stable stacking of a plurality of systems each having a crate and a top.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to /Stephen J. Castellano/ whose telephone number is 571-272-4535. The examiner can normally be reached on increased flexibility plan (IFP).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony D. Stashick can be reached on 571-272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Stephen J. Castellano/
Primary Examiner
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sjc